

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7037

BILL NUMBER: HB 1705

NOTE PREPARED: Jan 26, 2005

BILL AMENDED:

SUBJECT: Arbitration Clauses.

FIRST AUTHOR: Rep. Day

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
DEDICATED
X FEDERAL

IMPACT: State

Summary of Legislation: This bill provides that certain claims by a patient or the personal representative of a deceased patient against a health facility may not be submitted to arbitration. The bill allows the parties to agree to arbitration after an action is filed. It also declares certain arbitration agreements between a patient and health facility void.

Effective Date: July 1, 2005.

Explanation of State Expenditures: This bill would prohibit an agreement for arbitration of disputes against a health facility for negligent or intentional acts or omissions against a patient, including wrongful death in a contract between a health facility and a patient that is entered into or renewed after June 30, 2005. The bill would allow the parties to agree to arbitration after the commencement of an action. Expenses of the nursing facilities related to legal fees or other litigation expenses are not considered to be allowable costs of the Medicaid program and consequently would not affect the daily rates reimbursed to nursing facilities. Reimbursement of patient expenses to the Medicaid program could increase to the extent that this provision may increase the number or size of settlements that could potentially be awarded in actions filed by or on behalf of Medicaid recipients.

The Medicaid Program is jointly funded by the state and federal governments. The state share of program expenditures and any subsequent recovery of expenditures is approximately 38%.

Explanation of State Revenues:

Explanation of Local Expenditures: Local government-owned nursing facilities could be affected negatively

to the extent that they may rely on arbitration clauses in the contracts used with patients.

Explanation of Local Revenues:

State Agencies Affected: Office of Medicaid Policy and Planning, Family and Social Services Administration.

Local Agencies Affected: Local government-owned nursing facilities.

Information Sources: Melanie Bella, Assistant Secretary, Office of Medicaid Policy and Planning, 317-234-2407.

Fiscal Analyst: Kathy Norris, 317-234-1360.